

116TH CONGRESS  
1ST SESSION

# S. 2483

To counter efforts by foreign governments to pursue, harass, or otherwise persecute individuals for political and other unlawful motives overseas, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2019

Mr. WICKER (for himself, Mr. CARDIN, Mr. RUBIO, Mr. WHITEHOUSE, and Mr. GARDNER) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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## A BILL

To counter efforts by foreign governments to pursue, harass, or otherwise persecute individuals for political and other unlawful motives overseas, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Transnational Repres-  
5       sion Accountability and Prevention Act of 2019” or the  
6       “TRAP Act”.

7       **SEC. 2. FINDINGS.**

8       Congress makes the following findings:

1                             (1) The International Criminal Police Organiza-  
2                             tion (INTERPOL) works to prevent and fight crime  
3                             through enhanced cooperation and innovation on po-  
4                             lice and security matters, including counterter-  
5                             rorism, cybercrime, counternarcotics, and transna-  
6                             tional organized crime.

7                             (2) United States membership and participation  
8                             in INTERPOL advances the national security and  
9                             law enforcement interests of the United States re-  
10                            lated to combating terrorism, cybercrime, narcotics,  
11                            and transnational organized crime.

12                           (3) Article 2 of INTERPOL's Constitution  
13                            states that the organization aims “[t]o ensure and  
14                            promote the widest possible mutual assistance be-  
15                            tween all criminal police authorities . . . in the spir-  
16                            it of the ‘Universal Declaration of Human Rights’”.

17                           (4) Article 3 of INTERPOL's Constitution  
18                            states that “[i]t is strictly forbidden for the Organi-  
19                            zation to undertake any intervention or activities of  
20                            a political, military, religious or racial character”.

21                           (5) Some INTERPOL member countries have  
22                            used INTERPOL's databases and processes, includ-  
23                            ing Notice and Diffusion mechanisms and the Stolen  
24                            and Lost Travel Document Database, for activities  
25                            of a political or other unlawful character and in vio-

1 lation of international human rights standards, in-  
2 cluding making requests to INTERPOL for inter-  
3 ventions related to purported charges of ordinary  
4 law crimes that are fabricated for political or other  
5 unlawful motives.

6 (6) According to the Justice Manual of the  
7 United States Department of Justice, “[i]n the  
8 United States, national law prohibits the arrest of  
9 the subject of a Red Notice issued by another  
10 INTERPOL member country, based upon the notice  
11 alone” and requires the existence of a valid extra-  
12 dition treaty between the requesting country and the  
13 United States, a diplomatic request for provisional  
14 arrest of the subject individual, and an arrest war-  
15 rant from the United States Attorney’s Office of the  
16 subject jurisdiction.

17 **SEC. 3. SENSE OF CONGRESS.**

18 It is the sense of Congress that the Russian Federa-  
19 tion and other autocratic countries have abused  
20 INTERPOL’s databases and processes, including Notice  
21 and Diffusion mechanisms and the Stolen and Lost Travel  
22 Document Database, for political and other unlawful pur-  
23 poses, such as intimidating, harassing, and persecuting  
24 political opponents, journalists, members of civil society,  
25 and non-pliant members of the business community.

1   **SEC. 4. STATEMENT OF POLICY.**

2       It is the policy of the United States:

3               (1) To use the voice, vote, and influence of the  
4       United States within INTERPOL's General Assem-  
5       bly and Executive Committee to promote the fol-  
6       lowing objectives aimed at improving the trans-  
7       parency of INTERPOL and ensuring its operation  
8       consistent with its Constitution, particularly Articles  
9       2 and 3, and Rules on the Processing of Data:

10               (A) Enhance the screening process for No-  
11       tices, Diffusions, and other INTERPOL com-  
12       munications to ensure they comply with  
13       INTERPOL's Constitution and Rules on the  
14       Processing of Data.

15               (B) In cases in which INTERPOL has de-  
16       termined that a member country issued a No-  
17       tice, Diffusion, or other INTERPOL commu-  
18       nication against an individual in violation of Ar-  
19       ticles 2 or 3 of the INTERPOL Constitution,  
20       require such member country to seek the ap-  
21       proval of the Commission for the Control of  
22       INTERPOL's Files (CCF) prior to publishing  
23       any subsequent Notices, Diffusions, or other  
24       INTERPOL communication against the same  
25       individual.

21 (F) Require INTERPOL in its annual re-  
22 port to provide a detailed account of the fol-  
23 lowing information, disaggregated by member  
24 country or entity:

(i) The number of Notice requests, disaggregated by color, that it received.

(ii) The number of Notice requests, disaggregated by color, that it rejected.

(iii) The category of violation identified in each instance of a rejected Notice.

(iv) The number of Diffusions that it cancelled without reference to decisions by the CCF.

(v) The sources of all INTERPOL income during the reporting period.

(vi) Every instance in which INTERPOL suspends or withdraws the access rights or otherwise sanctions a member country and the reason for taking such measures.

(G) Require the CCF in its annual report to provide a detailed account of the following information, disaggregated by country:

(i) The number of admissible complaints received by the CCF regarding issued Notices, Diffusions, and other INTERPOL communications.

(ii) The category of violation alleged in each such complaint

(iii) The outcome of the CCF's adjudication of each complaint, specifying whether a violation was found and, if so, what specific category of violation was identified.

(iv) The course of action taken by the CCF in response to its adjudication of each complaint, such as deleting or correcting the subject INTERPOL file or files.

(v) The number of preventive requests received by the CCF and the outcome of the CCF's adjudication of each such request.

(2) To direct relevant United States departments and agencies to take appropriate action in response to credible information of likely attempts by member countries to abuse INTERPOL communications for politically motivated or other unlawful purposes, including by—

(A) using bilateral and multilateral engagements with INTERPOL member countries, as appropriate, to raise the United States serious concerns about attempts to abuse

1           INTERPOL systems in violation of Articles 2  
2           and 3 of INTERPOL's Constitution;

3           (B) lodging demarches, as appropriate,  
4           with the government of the violating member  
5           country for such abuses of INTERPOL com-  
6           munications;

7           (C) engaging with foreign immigration and  
8           security services, as appropriate, to alert such  
9           services to the abusive nature of INTERPOL  
10          communications against targeted individuals  
11          who may enter the jurisdiction of such a service  
12          during the course of international travel;

13          (D) engaging with foreign immigration and  
14          security services, as appropriate, to secure the  
15          freedom of targeted individuals if such individ-  
16          uals are detained on the basis of such an  
17          INTERPOL communication; and

18          (E) engaging with foreign financial and  
19          treasury authorities, as appropriate, to ensure  
20          the freedom of targeted individuals to conduct  
21          lawful commerce within their jurisdiction.

22   **SEC. 5. REPORT ON THE ABUSE OF INTERPOL SYSTEMS.**

23          (a) IN GENERAL.—Not later than 180 days after the  
24          date of the enactment of this Act, the Attorney General,  
25          in coordination with the Secretary of Homeland Secretary,

1 the Secretary of State, and the heads of other relevant  
2 United States Government departments or agencies shall  
3 submit to the appropriate congressional committees a re-  
4 port containing an assessment of how INTERPOL mem-  
5 ber countries abuse INTERPOL Red Notices, Diffusions,  
6 and other INTERPOL communications for political mo-  
7 tives and other unlawful purposes within the past three  
8 years.

9       (b) ELEMENTS.—The report required under sub-  
10 section (a) shall include the following elements:

11           (1) A description of—

12              (A) the most common tactics employed by  
13 member countries in conducting such abuse, in-  
14 cluding the crimes most commonly alleged and  
15 the INTERPOL communications most com-  
16 monly exploited;

17              (B) how many INTERPOL communica-  
18 tions are blocked by INTERPOL authorities  
19 because of suspected politically motivated  
20 abuse; and

21              (C) which countries are responsible for the  
22 greatest volume and most frequent abuse of  
23 INTERPOL communications and whether  
24 INTERPOL has imposed any penalty on these  
25 member countries for this abuse.

1                   (2) An assessment of the adequacy of  
2 INTERPOL mechanisms for challenging abusive re-  
3 quests, including the Commission for the Control of  
4 INTERPOL's Files (CCF), and any shortcoming  
5 the United States believes should be addressed.

6                   (3) A description of any incidents in which the  
7 Department of Justice assesses that United States  
8 courts and executive departments or agencies have  
9 relied on INTERPOL communications in contraven-  
10 tion of existing law or policy to seek the detention  
11 of individuals or render judgments concerning their  
12 immigration status or requests for asylum, with-  
13 holding of removal, or convention against torture  
14 claims and any measures the Department of Justice  
15 or other executive departments or agencies took in  
16 response to these incidents.

17                  (4) A description of how the United States  
18 monitors and responds to likely instances of abuse of  
19 INTERPOL communications by member countries  
20 that could affect the interests of the United States,  
21 including citizens and nationals of the United  
22 States, employees of the United States Government,  
23 aliens lawfully admitted for permanent residence in  
24 the United States, aliens who are lawfully present in  
25 the United States, or aliens with pending asylum,

1       withholding of removal, or convention against torture claims, though they may be unlawfully present  
2       in the United States.

4               (5) A description of what actions the United  
5       States takes in response to credible information it  
6       receives concerning likely abuse of INTERPOL com-  
7       munications targeting employees of the United  
8       States Government for activities they undertook in  
9       an official capacity.

10              (6) A description of United States advocacy for  
11       reform and good governance within INTERPOL.

12              (7) A strategy for improving interagency coordi-  
13       nation to identify and address instances of  
14       INTERPOL abuse that affect the interests of the  
15       United States, including international respect for  
16       human rights and fundamental freedoms, citizens  
17       and nationals of the United States, employees of the  
18       United States Government, aliens lawfully admitted  
19       for permanent residence in the United States, aliens  
20       who are lawfully present in the United States, or  
21       aliens with pending asylum, withholding of removal,  
22       or convention against torture claims, though they  
23       may be unlawfully present in the United States.

24              (8) An estimate of the costs involved in estab-  
25       lishing such improvements.

1       (c) FORM OF REPORT.—Each report required by sub-  
2 section (a) shall be submitted in unclassified form and be  
3 published in the Federal Register, but may include a clas-  
4 sified annex, as appropriate.

5       (d) BRIEFING.—Not later than 180 days after the  
6 submission of the report in subsection (a), and every 180  
7 days after for two years, the Department of Justice, in  
8 coordination with the Department of Homeland Secretary,  
9 the Department of State, and the heads of other relevant  
10 United States Government departments and agencies shall  
11 brief the appropriate congressional committees on recent  
12 instances of INTERPOL abuse by member countries and  
13 United States efforts to identify and challenge such abuse,  
14 including efforts to promote reform and good governance  
15 within INTERPOL.

**16 SEC. 6. PROHIBITION ON DENIAL OF SERVICES.**

17       (a) ARRESTS.—No United States Government de-  
18 partment or agency may arrest an individual who is the  
19 subject of an INTERPOL Red Notice or Diffusion issued  
20 by another INTERPOL member country, based solely  
21 upon the INTERPOL communication without—

22               (1) prior verification of the individual's eligi-  
23 bility for extradition under a valid bilateral extra-  
24 dition treaty for the specified crime or crimes;

1                   (2) receipt of a diplomatic request for provi-  
2                   sional arrest from the requesting country; and

3                   (3) the issuance of an arrest warrant in compli-  
4                   ance with section 3184 of title 18, United States  
5                   Code.

6                 (b) REMOVAL AND TRAVEL RESTRICTIONS.—No  
7                 United States Government department or agency may  
8                 make use of any INTERPOL Notice, Diffusion, or other  
9                 INTERPOL communication, or the information contained  
10                therein, published on behalf of another INTERPOL mem-  
11                ber country with which the United States Government is  
12                not a party to a valid bilateral extradition treaty as the  
13                sole basis to detain or otherwise deprive an individual of  
14                freedom, to remove an individual from the United States,  
15                or to deny a visa, asylum, citizenship, other immigration  
16                status, or participation in any trusted traveler program  
17                of the Transportation Security Administration, without  
18                first verifying through the NCB, in coordination with the  
19                Department of State and other relevant United States  
20                government departments or agencies, that the subject  
21                INTERPOL communication likely comports with Articles  
22                2 and 3 of INTERPOL’s Constitution.

23               **SEC. 7. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS  
24                PRACTICES.**

25               The Foreign Assistance Act of 1961 is amended—

1                             (1) in section 116 (22 U.S.C. 2151n), by add-  
2                             ing at the end the following new subsection:

3                         “(h) POLITICALLY MOTIVATED REPRISAL AGAINST  
4 INDIVIDUALS OUTSIDE THE COUNTRY.—The report re-  
5 quired by subsection (d) shall include examples from cred-  
6 ible reporting of likely attempts by countries to misuse  
7 international law enforcement tools, such as INTERPOL  
8 communications, for politically motivated reprisal against  
9 specific individuals located in other countries.”; and

10                         (2) in section 502B (22 U.S.C. 2304)—

11                             (A) by redesignating the second subsection  
12                             (i) (relating to child marriage status) as sub-  
13                             section (j); and

14                             (B) by adding at the end the following new  
15                             subsection:

16                         “(k) POLITICALLY MOTIVATED REPRISAL AGAINST  
17 INDIVIDUALS OUTSIDE THE COUNTRY.—The report re-  
18 quired by subsection (b) shall include examples from cred-  
19 ible reporting of likely attempts by countries to misuse  
20 international law enforcement tools, such as INTERPOL  
21 communications, for politically motivated reprisal against  
22 specific individuals located in other countries.”.

23 **SEC. 8. DEFINITIONS.**

24                         In this Act:

1                   (1) APPROPRIATE CONGRESSIONAL COMMIT-  
2                 TEES.—The term “appropriate congressional com-  
3                 mittees” means—

4                   (A) the Committee on Foreign Relations,  
5                 the Committee on Appropriations, and the  
6                 Committee on the Judiciary of the Senate; and  
7                   (B) the Committee on Foreign Affairs, the  
8                 Committee on Appropriations, and the Com-  
9                 mittee on the Judiciary of the House of Rep-  
10                 resentatives.

11                  (2) INTERPOL COMMUNICATIONS.—The term  
12                 “INTERPOL communications” means any  
13                 INTERPOL notice or diffusion or any entry into  
14                 any INTERPOL database or other communications  
15                 system maintained by INTERPOL.

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